As this was an action for taking by eminent domain, the character of the property is in issue. *Aylmore* v. *Seattle*, 100 Wash. 515, 171 Pac. 659. Since earliest times fishing in navigable waters has been a public right. *Warren* v. *Matthews*, 6 Mod. 73; *Arnold* v. *Mundy*, 1 Halsted (N. J.), 1. See 27 HARV. L. REV. 750. Exclusive privileges were acquired only by grant from the sovereign. *Cf. Trustees of Brookhaven* v. *Strong*, 60 N. Y. 56. See 3 KENT, COMM., 413. But see *Arnold* v. *Mundy*, *supra*. This grant, or "free fishery," was considered real property. See *Hume* v. *Rogue River Packing Co.*, 51 Ore. 237, 92 Pac. 1065. See 2 FARNHAM, WATERS AND WATER RIGHTS, 1375, 1378. Modern statutes confer no such dignified rights. For example, in Alaska a license gives no property right in the site. *Columbia Salmon Co.* v. *Berg*, 5 Alas. 538; *Thlinket Packing Co.* v. *Harris & Co.*, 5 Alas. 471. However, this doctrine rests upon the fact that the local license is merely a tax, and the federal permit only certifies that the fish trap will not interfere with navigation. See 1915 ALAS. SESS. LAWS, c. 76. See *Columbia Salmon Co.* v. *Berg*, *supra*. The Washington statute goes beyond this, and gives the licensee exclusive rights. See 1922 WASH. REM. CODE, § 5679. This represents a compromise between various interests of the state. The necessity of advantageous commercial fishing demands some degree of exclusiveness. The state also must protect fishing for the public, therefore the exclusive permission is hedged by restrictions. It runs only from year to year; it is revocable, and is easily forfeited. *State* v. *Hals*, 90 Wash. 540, 156 Pac. 395; *Gerhard* v. *Worrell*, 20 Wash. 492, 55 Pac. 625. See 1922 WASH. REM. CODE, § 5682. The right is, then, less than a grant of a fishery, yet is more than the ordinary public fishing privilege. To hold it personal property within the meaning of the statute of limitations is in harmony with prior adjudications. *State* v. *Hals*, *supra*; *Hastings* v. *Anacortes Packing Co.*, 29 Wash. 224, 69 Pac. 776.

PAROL EVIDENCE RULE — SUBSTANTIVE LAW EXPRESSED IN TERMS OF EVIDENCE — BILLS AND NOTES — CONTEMPORANEOUS WRITTEN AGREEMENT AS PART OF CONTRACT. — In order to prevent loss on an investment in francs, the plaintiff borrowed money from the defendant on a promissory note payable on demand. Contemporaneous with the making of the note the parties agreed that the francs should be hypothecated to the defendant as security and, also, that the note should be payable when the exchange dropped to a more normal rate. This agreement was reduced to writing in a letter sent by the defendant to the plaintiff. The defendant demanded payment of the note several times prior to this action although the exchange rate had not become more normal. The plaintiff brings this action to restrain the defendant from enforcing payment and from realizing on the security. The defendant alleges that the note was to be paid within a reasonable time and counterclaims for the amount of the note and unpaid interest. *Held*, that judgment be entered for the defendant on his counterclaim. *Brunie & Maturie* v. *Royal Bank of Canada* [1922] 3 W. W. R. 82 (Alta.).

The parol evidence rule does not apply to every contract of which there is written evidence, but only to those which have been entirely integrated in that written evidence. See 2 WILLISTON, CONTRACTS, § 633. Whether or not there has been this integration of the contract depends upon the intent of the parties. See 4 WIGMORE, EVIDENCE, § 2430. The general rule has been that if the proposed evidence contradicts or varies the terms of the written contract, the presumed intent of the parties will be that the latter should be followed. But it has been suggested that a truer test is whether or not the particular element of the proposed evidence is dealt

with at all in the written contract. See 4 WIGMORE, EVIDENCE, § 2430. A promissory note often is but a part of a larger contract. *Leach* v. *Hill*, 106 Ia. 171, 76 N. W. 667; *Goodwin* v. *Nickerson*, 51 Cal. 166. In the present case, the letter does not contradict the express terms of the note but introduces a new element, the time at which demand is to be made. The letter and the note may well be read together as parts of one contract. *Cf. Jacobs* v. *Mitchell*, 46 Ohio St. 601; *American Gas and Ventilating Co.* v. *Wood*, 90 Me. 516; *Rogers* v. *Smith*, 47 N. Y. 324. But *cf. Porteous* v. *Muir*, 8 Ont. Rep. 127; *Rivers* v. *Brown*, 62 Fla. 258, 56 So. 553. The contingency in this case is one that may never happen. It is clear that the parties contemplated payment at some time rather than a gamble on the rate of exchange. The court is right, therefore, in construing the note to be payable on demand after a reasonable time. *Nunez* v. *Dautel*, 19 Wall. (U. S.) 560.

PROXIMATE CAUSE — ACTIVE CAUSE — INTERVENING FORCE. — Despite knowledge of an oncoming tempest, the defendant tug proceeded with its tow into the storm, and was finally forced to cast the tow adrift to save itself. The captain of the tow, during the two days in which the storm raged, became exhausted by his efforts to keep his ship afloat. The weather moderated during the ensuing two days and the tow attempted to make port. The exhausted captain failed to see a hidden shoal marked on his map with very small dots and consequently wrecked his vessel upon it. The owner and underwriter of the tow seek damages from the tug for the loss. The lower court gave judgment for the libelants, finding that the tug was negligent in proceeding into the storm and that the failure of the captain to discover the shoal was due to his exhaustion. *Held*, that the decree be affirmed. *Nehalem Steamship Co.* v. *Aktieselskabet Aggi*, The Recorder, Oct. 9, 1922 (C. C. A., 9th).

Where the defendant's negligent act places another in peril, the direct result of action by the latter to avoid this impending danger is the proximate result of the defendant's act. *Jones* v. *Boyce*, 1 Stark. 493. *Cf. Leyland Shipping Co.* v. *Norwich Union Fire Ins. Society* [1918] A. C. 350. Where this intervening act is instinctive, a failure to use mature deliberation will not break the chain of causation. This inability to use discretion is directly caused by the defendant. *Wilson* v. *Northern Pacific R.R. Co.*, 26 Minn. 278, 3 N. W. 333; *Nixon* v. *Williams*, 25 Ga. App. 594, 103 S. E. 880. *Cf. People* v. *Lewis*, 124 Cal. 551. In the principal case the defendant's act directly caused the captain's exhaustion, which in turn caused him to steer his vessel upon the shoal. The fact that one of this series of direct active forces must be traced through the mind does not alter the chain of causation. *Re Sponatski*, 220 Mass. 526, 108 N. E. 466. *Cf. Ex parte Heigho*, 18 Ida. 566, 110 Pac. 1029; *Regina* v. *Towers*, 12 Cox C. C. 530. Nor is the lapse of time material. *Western Union Tel. Co.* v. *Preston*, 254 Fed. 229 (3rd Circ.). Where the final result has been produced by an independent intervening force whose action was risked by the defendant's act, foreseeability of the intervention of this force is decisive of proximity of causation. *Gilman* v. *Noyes*, 57 N. H. 627. But in cases similar to the principal one, foreseeability of result is no test of proximate causation. See Joseph H. Beale, "The Proximate Consequences of an Act," 33 HARV. L. REV. 633, 649. See Jeremiah Smith, "Legal Cause in Actions of Tort," 25 HARV. L. REV. 103, 223, 303. A failure to recognize this distinction has too often led to incorrect conclusions. *Anthony* v. *Slaid*, 11 Met. (Mass.) 290; *Fowlkes* v. *Southern Ry. Co.*, 96 Va. 742, 32 S. E. 464. Foreseeability in the principal case is only a test to determine the fact of the defendant's negligence and not the proximity of results